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## A BILL FOR AN ACT

RELATING TO GENDER EQUALITY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that over the last eight  
2 years, the department of education has been accused of failing  
3 to provide equal treatment to both genders in regards to school  
4 athletics. The legislature notes that in 2010, the American  
5 Civil Liberties Union of Hawaii filed a lawsuit against the  
6 department of education over gender inequalities in the girls'  
7 softball program at Baldwin high school, which resulted in a  
8 settlement agreement between the parties. The legislature  
9 further notes that the American Civil Liberties Union of Hawaii  
10 has also recently filed a lawsuit on behalf of students from  
11 James Campbell high school against the Oahu interscholastic  
12 association and the department of education alleging a failure  
13 to comply with Title IX of the federal Education Amendments of  
14 1972. The legislature believes that the department of education  
15 must begin proactively establishing procedures and mechanisms  
16 for achieving full compliance with Title IX.

17           Accordingly, the purpose of this Act is to:



1           (1) Establish the advisory commission on gender equity in  
2           sports to evaluate the rules and procedures for gender  
3           equity enforcement mechanisms and make recommendations  
4           to the department of education; and

5           (2) Require the superintendent of education to submit a  
6           Title IX compliance report to the legislature and the  
7           advisory commission.

8           **SECTION 2.    Advisory commission on gender equity in**  
9           **sports; establishment.** (a) There shall be established within  
10          the department of education for administrative purposes only, an  
11          advisory commission on gender equity in sports, which shall be  
12          composed of the following members:

13           (1) One member to be appointed by the superintendent of  
14           education; and

15           (2) Six members, two each appointed by the governor, the  
16           speaker of the house of representatives, and the  
17           president of the senate;

18          provided that each appointing authority shall appoint commission  
19          members that represent, to the maximum extent possible, the  
20          gender, racial, and ethnic diversity of the State.



1           (b) The advisory commission shall determine if any school  
2 does not demonstrate substantial progress toward compliance with  
3 Public Law 92-318, Title IX of the federal Education Amendments  
4 of 1972, and section 302A-1001. Based upon its findings and  
5 determinations, the advisory commission may make annual  
6 recommendations to the board of education, the superintendent of  
7 education, and the legislature no later than December 1 of each  
8 year.

9           (c) The advisory commission shall expire three years after  
10 the effective date of this Act.

11           **SECTION 3. Equity in athletics; rules and implementation.**  
12 The advisory commission shall:

13           (1) Evaluate the rules and procedures for appropriate  
14 enforcement mechanisms to ensure equity in athletics  
15 for all public schools and shall develop a strategic  
16 plan containing recommendations and a timetable to  
17 achieve equity; provided that if a strategic plan that  
18 contains recommendations and a timetable to achieve  
19 equity already exists, the advisory commission may  
20 review and revise the existing strategic plan in lieu  
21 of developing a new strategic plan;



- 1           (2) Make recommendations to the department of education  
2           relating to the use of existing personnel, equipment,  
3           resources, and facilities. The recommendations shall  
4           include but not be limited to:
- 5           (A) A determination of an equitable rate of  
6           participation of males and females in athletics  
7           at public high school campuses;
- 8           (B) An examination of the issues that could result in  
9           complaints and allegations of failure to comply  
10          with Public Law 92-318, Title IX of the federal  
11          Education Amendments of 1972, and section  
12          302A-1001;
- 13          (C) A review of the various remedies for violations  
14          of Public Law 92-318, Title IX of the federal  
15          Education Amendments of 1972, and section  
16          302A-1001, that may be available to an aggrieved  
17          party; and
- 18          (D) A determination of the appropriate use of  
19          revenues when making decisions about the  
20          equitable use of funds for support of athletic  
21          activities. In making this determination, the



1 advisory commission shall consider all funds  
2 received and expended for athletic promotion or  
3 support, including revenues from direct-support  
4 organizations; and

5 (3) Develop indicators and establish benchmarks to measure  
6 progress toward goals.

7 SECTION 4. **Factors; unequal aggregate expenditures.** (a)

8 In making any determinations or recommendation under this  
9 subpart, the advisory commission on gender equity in sports  
10 shall consider the following factors:

- 11 (1) Whether the selection of sports and levels of  
12 competition effectively accommodate the interests and  
13 abilities of members of both sexes;
- 14 (2) The provision of equipment, uniforms, and supplies;
- 15 (3) Equal access to practice and game times;
- 16 (4) Travel and per diem allowances;
- 17 (5) Opportunities to receive coaching and academic  
18 tutoring;
- 19 (6) Assignment and compensation of coaches and tutors;
- 20 (7) Access to locker room, weight room, practice,  
21 competitive, and training facilities;



1 (8) Access to medical services;

2 (9) The provision of housing and dining facilities and  
3 services;

4 (10) Publicity; and

5 (11) Any other relevant factors.

6 (b) Unequal aggregate expenditures for members of each sex  
7 or unequal expenditures for male and female teams, if a public  
8 high school operates or sponsors separate teams, do not  
9 constitute a violation of this subpart, but in determining  
10 violations of this subpart, the failure to provide necessary  
11 funds for teams for one sex in assessing equality of opportunity  
12 for members of each sex shall be considered.

13 SECTION 5. **Compliance report.** By December 31, 2019, the  
14 superintendent of education shall submit to the legislature and  
15 the advisory commission on gender equity in sports a report of  
16 compliance with Public Law 92-318, Title IX of the federal  
17 Education Amendments of 1972, including a compliance plan with  
18 timelines for every public high school, an analysis and  
19 assessment of current activities with respect to Title IX  
20 compliance, and itemized expenditures for athletics.

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1 SECTION 6. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

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JAN 24 2019



# H.B. NO. 1595

**Report Title:**

DOE; Gender Equity; Athletics; Advisory Commission;  
Establishment

**Description:**

Establishes the advisory commission on gender equity in sports to evaluate the rules and procedures for gender equity enforcement mechanisms and make recommendations to the Department of Education. Requires the Superintendent of Education to submit a Title IX compliance report to the Legislature and the advisory commission.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

